

REMARKS

The final rejection of July 27, 2007, has been carefully reviewed. No prior art rejections have been imposed, whereby applicants understand that the claims are deemed by the PTO to define novel and unobvious subject matter over any known prior art.

The claims in the application are now claims 2-6, 8-15, 25-30 and 32-36. Applicants respectfully submit that the rejections of record are unreasonable, and that the present claims meet all the requirements of Section 112, and therefore should be allowed. Allowance is accordingly respectfully requested.

Claim 8 has been objected to because a **cancelled** word was inaccurately set forth as two words. The rules do not appear to provide any mechanism for correcting a word deleted from a claim. As the word is no longer there, applicants see no reason for the objection, and therefore respectfully request that it be withdrawn.

On the other hand, if the examiner has any advice on how such a misspelling of a cancelled word can be corrected, please advise.

The amendment to the specification continues to be held as being prohibited "new matter" and consequently claims

2-6, 8-15, 25-30 and 32 are again rejected under the first paragraph of Section 112 as containing such new matter and thereby failing to comply with the written description requirement. The objection and rejection are again respectfully traversed.

Applicants respectfully remind the examiner that the present application was filed in the Japanese language, the present application being the national phase of PCT/JP99/04480. Thus, the original text supports the amendment in the English language translation, it again being noted that the English text which has been corrected was a mis-translation. There can be no new matter under these circumstances.

Withdrawal of objection and rejection is respectfully requested.

As regards the criticized recitation in claim 8, applicants respectfully maintain that the present application is directed to those skilled in the art, and that those skilled persons are very highly skilled. Those persons skilled in the art will understand that applicants' specification provides full and understandable support for the criticized language in claim 8.

Withdrawal of the rejection is in order and is respectfully requested.

As regards criticism of the expression "at least one of a formative marker that reflects the activity of osteoblasts or at least one of a marker that reflects the activity of osteoclasts", the "at least one of" language has been deleted in deference to the examiner's views, but without prejudice to applicants' position which is that reciting "a formative marker" and "a marker" does not prohibit the use of plural markers. It is applicants' position that the amendments made in deference to the examiner's views add no limitations to the claims, and do not change the scope of claim 8 which still covers at least one of each of the markers.

Withdrawal of the rejection is in order and is respectfully requested.

Claims 2-6, 8-15, 25-30 and 32 have again been rejected under the second paragraph of Section 112. This rejection is respectfully traversed.

Again, applicants' specification is directed to those highly skilled persons of the present art. Upon reading applicants' specification, they would very well understand the meaning of claim 6, 8 and 30.

The same is true with respect to the criticism of claims 2-6, 8-17 and 25-30. Those skilled in the present art, after reading applicants' specification, and with the

knowledge generally available to those skilled in the art, would find claims 2-6, 8-17 and 25-30 fully understandable.

As regards the criticism of claim 32, it has now been amended above to delete line 7 with reference to testing for a marker for bone formation.

As regards the Jepson form of claim 32, applicants do not understand the examiner's position. The transitional language for a Jepson claim is, as appears in claim 32, "the improvement wherein" (or "the improvement comprising"). There is no lack of antecedent basis.

Simply as an example of the common use of the transition language "the improvement" for a Jepson claim, applicants respectfully point to four patents which issued yesterday, October 30, 2007, which contained claims having such Jepson language, these being U.S. patents 7,289,109; 7,289,020; 7,288,690 and 7,288,620. There are undoubtedly many more. Such language is clearly accepted by the PTO and has been for many, many years.

Withdrawal of the rejection is in order and is respectfully requested.

Applicants have filed on even date herewith a Request for Continued Examination (RCE) which includes a petition for three (3) months' suspension, during which time applicants may file any one or more of amendments, arguments,

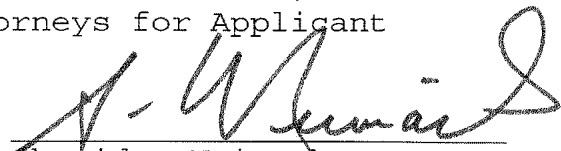
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evidence, etc. For the record, however, applicants believe that no further papers should be necessary, and that the present application should be allowed on the basis of the present record.

Respectfully submitted,

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